

board of equalization and prescribing the duty and authority of said board, and further prescribing the duty and authority of said board of trustees, and repealing all laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration and beg to report same back to the Senate with the recommendation that it do pass, and not be printed.

Paulus, Chairman; Cowell, Gibson, Wiley, Johnson.

#### TENTH DAY.

Senate Chamber,  
Austin, Texas,  
Monday, January 27, 1913.

The Senate met pursuant to adjournment, and was called to order by Lieutenant Governor Will H. Mayes.

Roll call, a quorum present, the following Senators answering to their names:

Astin.	Morrow.
Bailey.	Murray.
Carter.	Nugent.
Collins.	Paulus.
Conner.	Real.
Cowell.	Taylor.
Darwin.	Terrell.
Gibson.	Townsend.
Greer.	Vaughan.
Hudspeth.	Warren.
Johnson.	Watson.
Kauffman.	Weinert.
Lattimore.	Westbrook.
McGregor.	Wiley.
McNealus.	

Absent.

Brelsford. Willacy.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of Friday, on motion of Senator Terrell, the same was dispensed with.

(See Appendix for petitions and memorials and standing committee reports.)

#### SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator Kauffman:

Whereas, The Senate of Texas prefers light to darkness; therefore, be it

Resolved, That the Superintendent of Public Buildings and Grounds be re-

quested to keep the lights on in the Senate Chamber until 12 o'clock every night.

HUDSPETH,  
KAUFFMAN.

The resolution was read and adopted.

#### SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator Carter:

Whereas, Hon. John L. Ratliff of Delta county, a former member of this body, is in the city; therefore, be it

Resolved, That we invite him to address the Senate on any matter of his own choice and accord to him the privileges of the floor.

DARWIN,  
CARTER,  
LATTIMORE,  
WATSON.

The resolution was read and adopted.

The Chair appointed Senators Carter, Greer and McNealus as a committee to present ex-Senator Ratliff to the President's stand.

#### SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator McNealus:

Resolved, That the privileges of the Senate Chamber be extended to Mayor W. M. Holland and the four municipal commissioners of Dallas; also to Mayor Davis and municipal commissioners of Fort Worth; also to ex-State Senators Harbison, Ratliff and Gough, and that they be invited to address the Senate.

The resolution was read and adopted.

#### SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator Lattimore:

Resolved, That the committee appointed by the Senate to investigate the affairs of the Attorney General's Department for five years next preceding January 1, 1913, be increased by the addition of two members of the Senate, to be appointed by the Lieutenant Governor.

The resolution was read and adopted.

In accordance with the above resolution the Chair, Lieutenant Governor Mayes, appointed Senators Lattimore and Townsend as the additional members of the special committee.

## BILLS AND RESOLUTIONS.

By Senators Carter and Collins:

Senate bill No. 151, A bill to be entitled "An Act to prohibit foreign corporations from removing suits against them to the district courts of the United States and providing for the forfeiture of the right of such foreign corporations to do business in the State of Texas, upon filing an application to remove any civil suit pending or hereafter brought against it in the State court to any of the district courts of the United States, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 1.

By Senators Hudspeth and Real:

Senate bill No. 152, A bill to be entitled "An Act creating for each county of this State a lunacy commission, composed of three physicians, prescribing their qualifications, term of office, mode of appointment, oath and bond and duties and the mode of procedure in lunacy cases; giving to certain persons the right of appeal to the county judge from decisions of the commission, and prescribing the mode of procedure for such appeal and for the trial of such cases on appeal before the county judge and prescribing the procedure for recovering on behalf of the State the expenses of patients admitted to the asylums and for recovering by the county costs of lunacy proceedings and the expense of conveying, providing and caring for patients before admission to the asylums; prescribing clothing to be furnished patients before admission to the asylum and other conditions for such admission, and prescribing where lunacy proceedings may be instituted and tried and allowing bond to be given in certain cases for the care of patients without admission to the asylums; prescribing requisites and defining the right of recovery on such bonds; fixing the compensation of officers and others performing services in lunacy cases; providing for the erection by counties of houses of detention for insane and requiring that insane persons proceeded with hereunder shall never be confined in a jail or compartment attached to, adjoining nor within 300 feet of a jail; repealing articles numbered consecutively from 150 to 165, both inclusive, of the Revised Civil Statutes of the State of Texas of 1911, adopted at the Regular Session of the Thirty-second Legislature, and all other laws and parts of laws in conflict therewith, and declaring an emergency."

Read first time and referred to Committee on Public Health.

By Senators Weinert and McGregor:

Senate bill No. 153, A bill to be entitled "An Act creating and incorporating the Buda Independent Consolidated County Line School District in Hays and Travis counties, defining its boundaries and providing for a board of trustees therein, election and terms of office, and vesting the title of all public school money and property set apart or dedicated to the public free schools in said district in said board of trustees, and providing for apportionment and payment of State available school funds hereafter made to any of the school districts included in said district to be made to said board of trustees, and providing that this act shall not affect any outstanding bonds of any district included therein or of any tax in said districts to pay interest or principal of such bonds, and providing for the method of levying, assessing and collecting taxes in said district for the years 1913 and subsequent years, and providing how the lines of said district may be changed and prescribing how the rights of said district may be changed, and prescribing the rights, powers, privileges and duties of said district and its board of trustees, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Greer:

Senate bill No. 154, A bill to be entitled "An Act to amend Article 696, Chapter 1, of Title 12, of the Revised Criminal Statutes of the State of Texas, as adopted by the Thirty-second Legislature."

Read first time and referred to Judiciary Committee No. 1.

By Senators Darwin and Vaughan:

Senate bill No. 155, A bill to be entitled "An Act to provide for the regulation and supervision of every corporation, company, co-partnership or association which shall hereafter be organized within or without the State of Texas, whether incorporated or unincorporated, which shall in this State sell or negotiate for the sale of any stocks, bonds or other evidences of property or interest in itself or any other company, upon which sale or proposed sale the whole or any part of the proceeds are used, or to be used, directly or indirectly, for the payment of any commissions or other expenses incidental to the organization or promotions or other expenses incidental to the organization or promotion of any such

company, corporation, co-partnership or association, and providing penalties for the violation thereof, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 2.

By Senator Kauffman:

Senate bill No. 156, A bill to be entitled "An Act to amend Article 1422 of the Penal Code, revision of 1911, relating to the offense of swindling."

Read first time and referred to Judiciary Committee No. 2.

By Senator Terrell:

Senate bill No. 157, A bill to be entitled "An Act amending Chapter 1, Title 10, Articles 134, 135, 136, 142, 146, 150, 153, 155, 157, 159, 161, 163 and 165, of the Revised Civil Statutes of the State of Texas, providing for the admission of patients into, and the discharge of patients from the asylum, and providing for judicial proceedings in cases of lunacy, so as to make said articles applicable to habitual drunkards, and adding to said Chapter 1, Title 10, of the Revised Civil Statutes of Texas, Articles 166, 167 and 168, providing for the parole of habitual drunkards and the period of time confined in the asylum, and declaring an emergency."

Read first time and referred to Committee on State Asylums.

By Senator Townsend:

Senate bill No. 158, A bill to be entitled "An Act prescribing that not more than one person at the same time shall be permitted to occupy any compartment, voting booth or place prepared for a voter, prohibiting an election judge, clerk officers or other person from assisting any voter in preparing his ballot, in marking same or indicating by words, sign, symbol, writing or by any other means, to any voter how he should or should not vote; prescribing penalties for the violation of this Act; repealing all laws in conflict therewith, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 2.

By Senators Conner and Lattimore:

Senate bill No. 159, A bill to be entitled "An Act to amend Section 116, of Chapter 96, Acts of Regular Session of the Thirty-second Legislature, being an act entitled 'An Act to amend Sections 114, 115, 116, 117, 118, 119, 120 and 121, of the Twenty-ninth Legislature, and Sections 122, 123 and 124 of Chapter 124, of the Acts of the Twenty-ninth

Legislature, as amended by Chapter 7, of the Second Called Session of the Thirty-first Legislature, and repealing Sections 105, 106, 107, 108, 109, 110, 125 and 126, of Chapter 124, of the Acts of the Twenty-ninth Legislature, and Chapters 68 and 149 of the Acts of the Thirtieth Legislature, relating to teachers' certificates, and declaring an emergency,' so as to permit the issuance of State first-grade certificates to persons who have done certain required work in the standard junior colleges of Texas."

Read first time and referred to Committee on Educational Affairs.

By Senator McNealus, by request:

Senate bill No. 160, A bill to be entitled "An Act fixing the salary of the County Attorney of Dallas county; creating the office of county detective and fixing the salary therefor, describing his duties; giving the County Attorney of Dallas county power to appoint two county detectives and a stenographer, and fixing the salary and manner of payment therefor; giving the Commissioners' Court of Dallas county authority to make an allowance from the county funds to be placed at the disposal of the county attorney's office in securing evidence in criminal cases to be used in bringing offenders to justice; and repealing all laws or parts of laws in conflict with this Act, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 1.

By Senator McNealus:

Senate bill No. 161, A bill to be entitled "An Act providing that whenever any foreign corporation doing business in this State shall remove or make application to remove any cause from the State court to any Federal court of the United States, that it shall be the duty of the Secretary of State to revoke the license of such corporation, and where any such application is made or any cause is removed, it shall be thereafter unlawful for any county, city or town to grant any rights, easement or franchise in or across any public roads, streets, or alleys in this State to said corporation."

Read first time and referred to Committee on Internal Improvements.

By Senators Hudspeth and Brelsford:

Senate bill No. 162, A bill to be entitled "An Act incorporating and creating the Rankin Independent School District of Upton county, Texas, for free school purposes only; defining its boundaries, and

providing for the election of a board of trustees, for the raising of revenues by taxation, for the issuance of bonds, for building purposes, and for the maintenance of public free schools in such district, and vesting said district, and the board of trustees thereof, with all the rights, powers, privileges and duties conferred and imposed by general laws upon independent school districts and the board of trustees thereof, formed by the incorporation of a town or village for free school purposes only under the general law, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senators Hudspeth and Brelsford:

Senate bill No. 163, A bill to be entitled "An Act to reorganize the Thirty-second Judicial District of the State of Texas, and fixing the time of holding the terms of the district court in each of the counties therein; to reorganize the Seventieth Judicial District of the State of Texas, and fixing the time of holding the terms of the district court in each of the counties therein; to reorganize the Seventy-second Judicial District of the State of Texas and fixing the time of holding the terms of the district court in each of the counties therein: to make all processes issued or served before this act goes into effect, including recognizances and bonds, returnable to the terms of the district court as herein fixed; to attach the unorganized counties of Cochran and Hockley to Lubbock county for judicial and all other purposes; to attach the unorganized county of Loving to Reeves county for judicial and all other purposes; to attach the unorganized county of Crane to Ector county for judicial and all other purposes, and repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on Judicial Districts.

By Senator Astin:

Senate bill No. 164, A bill to be entitled "An Act to increase the limits of the Bremond Independent School District, and creating an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Warren:

Senate bill No. 165, A bill to be entitled "An Act to amend Articles 138, 150, 151, 152, 154, 155, 156, 157, 159, 160, 161 and 165, of Chapter 1, Title 10, of the Revised Civil Statutes of the State of Texas, adopted at the Regular Session of

the Thirty-second Legislature, 1911, relating to the admission of patients into the insane asylums of Texas, and judicial proceedings in lunacy cases, providing for the trial of persons alleged to be insane by a Medical Commission to be appointed by the county judge, unless a jury be demanded as herein provided for; providing further for the filing of a sworn report with recommendations by the Medical Commission with the county clerk, answering specific questions relative to the patient, and providing if tried by jury for findings by the jury on certain special issues, relating to the verdict of the jury; to the judgment of the court, repealing all laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on Public Health.

By Senator Morrow:

Senate bill No. 166, A bill to be entitled "An Act to amend Articles 735, 737 and 743 of Title 8, Chapter 5, of the Revised Code of Criminal Procedure of the State of Texas, and to add Article 737a, relating to charges and instructions to juries in cases of the grade felony, so as to provide that the charge in such cases shall be read to the jury before the argument begins, with certain exceptions, and providing for the form and manner of taking exceptions to the charge."

Read first time and referred to Judiciary Committee No. 2.

By Senator Morrow:

Senate bill No. 167, A bill to be entitled "An Act to amend Sections 7684, 7685, 7686, 7688, 7695 and 7697, in Chapter 15 of the Revised Civil Statutes of the State of Texas, adopted by the Thirty-second Legislature of the State of Texas and approved by the Governor of the State of Texas on the first day of April, 1911, relating to the collection of taxes heretofore, and that may hereafter be levied, making such taxes a lien on the land taxed, establishing and continuing such lien and providing for the sale and conveyance of the land delinquent for taxes since January, 1901, which may have been returned delinquent or reported sold to the State or to any county, city or town."

Read first time and referred to Judiciary Committee No. 1.

By Senator Morrow (by request):

Senate bill No. 168, A bill to be entitled "An Act to regulate the practice of dentistry in the State of Texas; to provide for the appointment of a board of

dental examiners, prescribing their duties, and to repeal all laws and parts of laws in conflict with this act."

Read first time and referred to Committee on Public Health.

By Senator Darwin:

Senate bill No. 169, A bill to be entitled "An Act abolishing what is known as 'the rule in Shelly's case,' and making a rule of evidence in certain cases so that the words 'heirs' or 'heirs of the body' shall be construed as words of purchase and not as words of limitation, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 1.

By Senator Conner:

Senate bill No. 170, A bill to be entitled "An Act to amend Articles 7695 and 7697, Title 126, Revised Statutes 1911."

Read first time and referred to Judiciary Committee No. 1.

By Senator Conner:

Senate bill No. 171, A bill to be entitled "An Act to amend Articles 3247 and 3248, Title 52, of the Revised Statutes of 1911."

Read first time and referred to Judiciary Committee No. 1.

By Senator Greer:

Senate bill No. 172, A bill to be entitled "An Act to authorize the St. Louis Southwestern Railway Company of Texas to purchase, own and operate as a part of its line the railroad of the Eastern Texas Railroad Company, together with all the franchises and property incident or appertaining thereto; and to authorize the Eastern Texas Railroad Company to sell its railroad, together with all the franchises and property incident or appertaining thereto to the St. Louis Southwestern Railway Company of Texas, and declaring an emergency."

Read first time and referred to Committee on Internal Improvements.

By Senators Collins and Carter:

Senate bill No. 173, A bill to be entitled "An Act to authorize the Texas & New Orleans Railroad Co. to purchase, own and operate the railroad of the Burr's Ferry, Browndell & Chester Railway Co., with the franchises and other properties thereunto appertaining; and to authorize the said Burr's Ferry, Browndell & Chester Railway Co. to sell the same; and to authorize the Texas & New Orleans Railroad Co. to issue additional mortgage bonds to the amount of the value

of the railroad, franchises and appurtenances so purchased as fixed, or as the same may be fixed, by the Railroad Commission of Texas, and to regulate the reports of the operations of such properties."

Read first time and referred to Committee on Internal Improvements.

By Senator McNealus:

Senate bill No. 174, A bill to be entitled "An Act to amend Article 6639 of Chapter 13, Title 115, of the Revised Civil Statutes of the State of Texas, of 1911, relating to the duties of railroad agents and affixing a penalty."

Read first time and referred to Committee on Internal Improvements:

By Senator McNealus:

Senate bill No. 175, A bill to be entitled "An Act to amend Article 6553, of Title 115, Chapter 10, of the Revised Civil Statutes of 1911, relating to railroad train dispatchers and affixing a penalty."

Read first time and referred to Committee on Internal Improvements.

By Senator Morrow:

Senate Joint Resolution No. 9, Proposing to amend Section 4, Article 5 of the Constitution of the State of Texas, providing that the Court of Criminal Appeals shall consist of four judges.

Read first time and referred to Committee on Constitutional Amendments.

By Senator Morrow:

Senate Joint Resolution No. 10, Proposing to amend Section 2, Article 5, of the Constitution of the State of Texas, providing that the Supreme Court of the State of Texas shall consist of one Chief Justice and four Associate Justices.

Read first time and referred to Committee on Constitutional Amendments.

By Senator Morrow:

Senate Joint Resolution No. 11, Amending Section 7, Article 5, of the Constitution of the State of Texas, relating to the creation and formation of Judicial Districts, the terms of compensation and qualifications of the Judge of the District Courts and the time of holding court.

Read first time and referred to Committee on Constitutional Amendments.

#### SIMPLE RESOLUTION.

By Senator Townsend:

Whereas, Captain "Bill" McDonald, ex-State Revenue Agent, and prince of

good fellows, is a visitor in the city; therefore, be it

Resolved, That Captain McDonald be extended the courtesies of the floor of the Senate during his visit in the city, and that he be invited to address the Senate.

The resolution was read and adopted.

The Chair appointed Senators Townsend, Greer and Carter as a committee to present Captain McDonald to the President's stand.

Later in the proceedings ex-Senator Ratliff and Captain McDonald appeared at the President's stand, being escorted by committee, and each addressed the Senate briefly.

#### SIMPLE RESOLUTION.

By Senator Vaughan:

Whereas, The report of the Committee on Constitutional Amendments contains a committee substitute for joint resolution No: 2, proposing a most important change in the organization and jurisdiction of the Judicial Department of the Government; therefore be it

Resolved by the Senate, That one thousand extra copies of the Journal containing such report, with such committee substitute, be printed for distribution.

The resolution was read and adopted.

#### SIMPLE RESOLUTION.

By Senator Lattimore:

Whereas, There is pending before the Legislature of Texas an act asking that the penitentiary system of this State be authorized to issue three million dollars of bonds; and

Whereas, It is stated in said bill that part of the proceeds of said bonds is to be used in paying debts of said system; and

Whereas, It is stated in the public press that there is now a debt against said system of \$1,555,000 in round numbers; and

Whereas, There is pending before this Senate a resolution to investigate said indebtedness and the need for said bond issue; therefore be it

Resolved by the Senate of Texas, That the Penitentiary Commissioners of Texas and the Auditor of said system be and they are hereby requested to furnish to this Senate in writing at the earliest practicable date the following information:

First. The amount of debt against said system or against the penitentiaries of this State on January 1, 1911, when the new law became operative.

Second. The amount of indebtedness against said system or properties at this date.

Third. An itemized statement of the properties of the said system on January 1, 1911, and an itemized statement of such properties at this date.

Fourth. An itemized list of the properties destroyed by fire, freeze or other causes since January 1, 1911, with estimated value of loss incurred.

Fifth. An itemized list of improvements placed on the properties of said system since January 1, 1911, with cost of each item.

Sixth. A statement of expenditures since January 1, 1911, showing amount paid out for employes' salaries, food supplies, tools, live stock, pay to convicts, repairs, giving each in totals separately.

Seventh. A list of the employes of said system since January 1, 1911, with names, and salaries paid to each, this to include every person receiving a salary or pay of any kind.

Eighth. A statement of the present form of each item of indebtedness, and to whom the same is owing, and when same is due.

Such information to be reported back to this Senate for its use and information in considering the passage of pending legislation and the formation of other laws regulating such expenditures in the future.

Senator Townsend offered the following amendment to the resolution:

Amend Section 2 of the resolution, asking for the amount of indebtedness of such institution, so that the statement called for may show amount of indebtedness, the names of the parties holding claims against said system, the amounts thereof, their address, and for what purpose said debts were created.

The amendment was read and adopted.

Senator Warren offered the following amendment:

Amend the resolution by adding the following after Clause 8:

Ninth. A statement of the receipts, from all sources, of the penitentiary system from January 1, 1911, to this time.

The amendment was read and adopted.

The resolution, as amended, was then adopted.

Senator Lattimore moved that the Secretary of the Senate be instructed to send a copy of the resolution, as amended, and adopted, to the Chairman of the

Prison Commission, and to the Auditor of the Prison Commission.

The motion prevailed.

#### SENATE CONCURRENT RESOLUTION NO. 5.

By Senators Johnson and Vaughan:

Senate Concurrent Resolution No. 5. Fixing the hour for the Senate to vote separately upon the election of the United States Senator from Texas for the unexpired term, ending March 4, 1913, and for the term beginning March 4, 1913, and also fixing the hour for the House of Representatives to vote separately for the elections aforesaid, and also fixing the hour for the Senate and House to meet in joint session and vote upon said elections; be it

Resolved, By the Senate of Texas, the House of Representatives concurring, that whereas the Senate and House of Representatives have adopted the Concurrent Resolution to proceed on the 28th day of January, 1913, in the regular manner provided by law for the election of a United States Senator from Texas for the term ending March 4, 1913, and also for the election of a United States Senator from Texas for the term beginning March 4, 1913; and,

Whereas, Said joint resolution does not fix the hour for the vote, nor arrange for a joint session; therefore, be it

Resolved, By the Senate of Texas, the House of Representatives concurring, that at 11 o'clock a. m., on the 28th day of January, 1913, the Senate shall proceed to vote upon the election of United States Senator from Texas for the term ending March 4, 1913, and immediately following shall proceed to vote upon the election of United States Senator from Texas for the term beginning March 4, 1913, likewise also the House of Representatives shall at 11 o'clock a. m., on the 28th day of January, 1913, proceed to vote upon the election of United States Senator from Texas for the term ending March 4, 1913, and immediately following shall proceed to vote upon the election of United States Senator from Texas for the term beginning March 4, 1913. That on the 29th day of January, 1913, at 12 o'clock m., the Senate and the House of Representatives shall meet in joint session in the Hall of the House of Representatives for the purpose of electing a United States Senator for said terms, and shall proceed to vote upon the election of United States Senator for the term end-

ing March 4, 1913, and immediately following shall proceed to vote for a United States Senator from Texas for the term beginning March 4, 1913, as provided by law.

The resolution was read and adopted. Morning call concluded.

#### SENATE BILL NO. 5.

Senator Weinert asked unanimous consent to suspend the regular order of business, simple resolution by Senator Lattimore, for the purpose of taking up Senate bill No. 5. There was no objection, and

The Chair laid before the Senate on second reading,

Senate bill No. 5, A bill to be entitled "An Act to provide for the suspension of sentence in certain cases of conviction of felony for first offenses, upon the recommendation of the jury, and for submission of the issue to the jury by the court, and to provide the duration of the suspension of sentence and for pronouncing sentence after suspension thereof in case of final conviction of the defendant of any other felony, cumulating punishment, in such cases, and for granting a new trial after suspension, and to repeal all laws in conflict, and providing for an emergency."

The bill was read and action recurred on the committee report (with committee amendments), and Senator Weinert moved that the several committee amendments be voted on separate. The motion prevailed.

Amendment No. 1, as follows, was read and adopted.

Amend the bill by adding after the word "defendant" in line 5 of Section 1, the following: "which shall be sworn to and filed before the trial begins."

Amendment No. 2, as follows, was read and adopted:

Amend the bill by adding at the end of Section 1 the following: "or any other State. This act is not to be construed as preventing the jury from passing on the guilt or innocence of the defendant, but he may enter his plea of not guilty at the same time with said affidavit."

Amendment No. 3, as follows, was read and adopted:

Amend the bill by adding after the word "penitentiary" in line 7, Section 1, the following: "and in all cases where defendant is charged with felonies other than those named in Section 1 hereof, when the defendant has no counsel, it shall be the duty of the court to

inform the defendant of his right to make such application, and the court shall appoint counsel to prepare and present same if desired by defendant."

Amendment No. 4, as follows, was read and adopted:

Amend the bill by adding after the word "defendant" in line 2 of Section 2, the following: "to enable the jury to determine whether to recommend the suspension of sentence."

Senator Weinert offered the following amendment, which was read and adopted:

Amend the bill by striking out the word "character" in Section 2, line 2, and insert the words "general reputation" in lieu thereof.

Senator Weinert offered the following amendment, which was read and adopted:

Amend the bill by adding after the word "disability," line 32, Section 5, of the printed bill, the following: "or other good cause."

Senator Weinert offered the following amendment:

Amend the bill by adding after the word "cases," page 2, line 2, Section 2, the word "neither," and strike out the word "not" in the printed bill, line 3, after the word "shall" in said section.

The amendment was read and adopted.

Senator Weinert offered the following amendment:

Strike out the word "required" immediately following the word "or" in Section 5, line 5, page 3, and insert the word "inquired."

Strike out the word "release" in Section 7, line 15, page 3, and insert the word "released."

Strike out the word "provided" in Section 9, lines 19 and 20, page 3, and insert the word "providing;" that the word "and" be inserted immediately following the words "great benefit," in Section 9, line 21, page 3.

The amendment was read and adopted.

Senator Vaughan offered the following amendment:

Amend the bill by striking out the word "own" in line 15, page 3, and inserting after the word recognizance in said line the words "with one or more good and sufficient sureties, to be approved by the court."

Senator Carter moved to table the amendment, and the yeas and nays were called for.

Senator Lattimore moved that the Senate recess until 2 o'clock today.

Senator Vaughan moved that the Senate adjourn until 10 o'clock tomorrow morning.

Action recurred on the longest time first and the motion to adjourn was lost by the following vote:

Yeas—9.

Astin.	Lattimore.
Conner.	McNealus.
Cowell.	Townsend.
Darwin.	Vaughan.
Kauffman.	

Nays—15.

Bailey.	Taylor.
Carter.	Terrell.
Collins.	Warren.
Greer.	Watson.
Johnson.	Weinert.
Murray.	Westbrook.
Paulus.	Wiley.
Real.	

Absent.

Brelsford.	Morrow.
Gibson.	Nugent.
Hudspeth.	Willacy.
McGregor.	

Action then recurred on the motion to recess until 2 o'clock today and that motion was lost by the following vote:

Yeas—11.

Conner.	Taylor.
Cowell.	Townsend.
Darwin.	Vaughan.
Greer.	Westbrook.
Johnson.	Wiley.
Lattimore.	

Nays—13.

Astin.	Paulus.
Bailey.	Real.
Carter.	Terrell.
Collins.	Warren.
Kauffman.	Watson.
McNealus.	Weinert.
Murray.	

Absent.

Brelsford.	Morrow.
Gibson.	Nugent.
Hudspeth.	Willacy.
McGregor.	

#### SENATE BILL NO. 5.

Action then recurred on the pending business, Senate bill No. 5, the question being on the motion by Senator Carter to table the pending amendment by Senator Vaughan.

The motion to table was adopted by the following vote:



## Yeas—15.

Astin	Murray.
Bailey.	Paulus.
Carter.	Real.
Collins.	Terrell.
Conner.	Warren.
Greer.	Weinert.
Kauffman.	Wiley.
McNealus.	

## Nays—9.

Cowell.	Townsend.
Darwin.	Vaughan.
Johnson.	Watson.
Lattimore.	Westbrook.
Taylor.	

## Absent.

Brelsford.	Morrow.
Gibson.	Nugent.
Hudspeth.	Willacy.
McGregor.	

Senator Vaughan offered the following amendment:

Amend the bill by adding after the ending of the word "abortion," in line 21, page 1, the words, "or any offense consisting of a violation of any law, prohibiting or regulating the sale of intoxicating liquor of any kind."

Here Senator Johnson moved that the Senate recess until 2:30 o'clock today, and

Senator Lattimore moved, as a substitute, that the Senate adjourn until 10 o'clock tomorrow morning.

Action recurred on the longest time first, and the motion to adjourn was lost by the following vote:

## Yeas—10.

Conner.	McGregor.
Cowell.	McNealus.
Gibson.	Nugent.
Kauffman.	Terrell.
Lattimore.	Townsend.

## Nays—18.

Astin.	Paulus.
Bailey.	Real.
Carter.	Taylor.
Collins.	Vaughan.
Darwin.	Warren.
Greer.	Watson.
Hudspeth.	Weinert.
Johnson.	Westbrook.
Morrow.	Wiley.

## Absent.

Brelsford.	Willacy.
Murray.	

Action then recurred on the motion to recess until 2:30 o'clock today, and the same was lost by the following vote:

## Yeas—6.

Darwin.	Taylor.
Johnson.	Terrell.
McGregor.	Townsend.

## Nays—22.

Astin.	Morrow.
Bailey.	Murray.
Carter.	Nugent.
Collins.	Paulus.
Cowell.	Real.
Gibson.	Vaughan.
Greer.	Warren.
Hudspeth.	Watson.
Kauffman.	Weinert.
Lattimore.	Westbrook.
McNealus.	Wiley.

## Absent.

Brelsford.	Willacy.
Conner.	

Action then recurred on the amendment by Senator Vaughan to Senate bill No. 5, and Senator Watson moved to table the amendment, which motion to table was lost by the following vote:

## Yeas—11.

Astin.	Paulus.
Bailey.	Real.
Greer.	Terrell.
Hudspeth.	Watson.
Kauffman.	Weinert.
Murray.	

## Nays—17.

Carter.	McNealus.
Collins.	Nugent.
Conner.	Taylor.
Cowell.	Townsend.
Darwin.	Vaughan.
Gibson.	Warren.
Johnson.	Westbrook.
Lattimore.	Wiley.
McGregor.	

## Present—Not Voting.

Morrow.	
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## Absent.

Brelsford.	Willacy.
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The amendment was then adopted.

Senator Vaughan offered the following amendment:

Amend the bill by adding after the word "repealed," in line 18, page 3, the following: "the provisions of this act shall not apply in any case wherein the

defendant therein may have pending against him at the time three or more felony charges preferred by the indictment."

The amendment was read and lost.

Senator Lattimore offered the following amendment, which was read and adopted:

Amend bill page 2, line 14, by striking out the words "proper process," and insert in lieu thereof the word "a capias."

Senator Lattimore offered the following amendment, which was read and adopted:

Amend bill, page 2, lines 24 and 25, by striking out all of said lines after the word "defendant" line 24, down to and including the word "aside," in line 25, and insert the following: "Shall make his written and sworn application for a new trial and dismissal of such case, stating therein that since such former trial and conviction, he has not been convicted of any felony and that there is not now pending against him any felony charge, which application shall be heard by the court during the first term time after same is filed."

The bill was read second time, and ordered engrossed.

On motion of Senator Wienert, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—28.

Astin.	McNealus.
Bailey.	Morrow.
Carter.	Murray.
Collins.	Nugent.
Conner.	Paulus.
Cowell.	Real.
Darwin.	Taylor.
Gibson.	Townsend.
Greer.	Vaughan.
Hudspeth.	Warren.
Johnson.	Watson.
Kauffman.	Weinert.
Lattimore.	Westbrook.
McGregor.	Wiley.

Absent.

Brelsford.	Willacy.
Terrell.	

The bill was read third time and passed by the following vote:

Yeas—28.

Astin.	Carter.
Bailey.	Collins.

Conner.	Murray.
Cowell.	Nugent.
Darwin.	Paulus.
Gibson.	Real.
Greer.	Taylor.
Hudspeth.	Townsend.
Johnson.	Vaughan.
Kauffman.	Warren.
Lattimore.	Watson.
McGregor.	Weinert.
McNealus.	Westbrook.
Morrow.	Wiley.

Absent.

Brelsford.	Willacy.
Terrell.	

Senator Weinert moved to reconsider the vote by which the bill was passed and lay that motion on the table.

The motion to table prevailed.

#### ADJOURNMENT.

On motion of Senator McNealus the Senate, at 1:10 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

#### APPENDIX.

#### COMMITTEE REPORTS.

Committee Room,

Austin, Texas, January 24, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Constitutional Amendments, to whom was referred

Senate Joint Resolution No. 2, beg leave to report we have had the same under consideration and are instructed to report it back to the Senate with the recommendation that the same do not pass, but that the following substitute be passed in lieu thereof:

By Senators Vaughan, Watson, Brelsford and Morrow:

Senate Joint Resolution, proposing to amend Article 5, of the State Constitution, relating to the Judicial Department of the State Government, by adopting in lieu thereof the following:

Be it Resolved by the Legislature of the State of Texas:

That Article 5, of the Constitution of the State of Texas, be repealed and that in lieu thereof the following be adopted, and that Article 5 of the State Constitution shall hereafter read as follows:

## ARTICLE 5.

Section 1. The judicial power of this State shall be vested in one Supreme Court, in district courts, in probate courts, in commissioners courts, and in magistrates courts, and in such other courts as may be provided by law. The Legislature may establish such other courts as may be necessary, and prescribe the jurisdiction and organization thereof, and conform the jurisdiction of the district and other inferior courts thereto.

Sec. 2. The Supreme Court shall consist of a Chief Justice and not less than fourteen Associate Justices. No person shall be eligible to the office of Chief Justice or Associate Justice of the Supreme Court unless he be at the time of his election a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court, or such lawyer and judge together, at least seven years. Said Chief Justice and Associate Justices shall be elected by the qualified voters of the State at a general election and shall hold their offices ten years, or until their successors are elected and qualified, and shall each receive an annual salary of \$6,000.00 and an additional allowance of \$5.00 per day while on circuit, unless otherwise provided by law. In case of a vacancy in the office of the Chief Justice of the Supreme Court, the Governor shall fill the vacancy until the general election for State officers, and at such general election the vacancy for the unexpired term shall be filled by the qualified voters of the State. The Judges of the Supreme Court, the judges of the Court of Criminal Appeals, the Chief Justices of the Courts of Civil Appeals now existing, and who may be in office at the time this amendment takes effect, shall constitute the Supreme Court until the expiration of their present terms of office under the existing Constitution and until their successors are elected and qualified. Should the Supreme Court not be filled to fifteen on its new organization in this way, the Governor shall fill the vacancy or vacancies until the next general election for State officers.

Sec. 3. The Supreme Court shall have appellate jurisdiction only, except as herein specified, which shall be co-extensive with the limits of the State. Its appellate jurisdiction shall extend to all cases of which the district courts have original or appellate jurisdiction, except as herein otherwise provided,

under such restrictions and regulations as may be prescribed by law. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus as may be prescribed by law, and under such regulations as may be prescribed by law the Supreme Court and the Justices thereof may issue the writs of mandamus, procedendo, certiorari, and such other writs as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction upon the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State. The Supreme Court shall have power, upon affidavit or otherwise, as by the Court may be determined, to ascertain such matters of fact as may be necessary for the proper exercise of its jurisdiction. The Supreme Court shall sit for the transaction of business from the first Monday in October of each year until the last Saturday of June in the next year, inclusive, at the Capitol of the State. Provided, however, that each member of the Supreme Court shall go on circuit and sit in the district courts as a trial judge for not less than one month during each year to any county or counties as the Supreme Court may determine, and which he may do during the term of the court. The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter be required by law and he shall hold his office during the pleasure of the Court and shall receive such compensation as the Legislature may provide.

Sec. 4. The Supreme Court shall be divided into two divisions, to-wit: the civil division and the criminal division.

(a) The Civil Division. The civil division of the Supreme Court shall consist of such of the judges as may be designated by the court from time to time. Five shall constitute a quorum, and a concurrence of a majority of the quorum shall be necessary to the decision of the Supreme Court in civil matters; provided, that the investigations of issues of fact may be remitted by the judges then sitting in the civil division to committees of that division, such committees to consist of not less than two judges as the civil division may determine.

(b) The Criminal Division. The criminal division of the Supreme Court shall consist of such judges thereof as may be designated by the Supreme Court from time to time, not less than three in number, and three shall constitute a

quorum, and a concurrence of a majority of the judges sitting, or of a quorum, shall be necessary to decision.

Sec. 5. Appeals to the Supreme Court are abolished in all civil cases, and no civil case shall be reviewed by the Supreme Court, except on writ of error, for which the party suing for the writ shall make application to the Supreme Court assigning errors of law which he propounds and stating wherein, if he so contends, the verdict, of the finding of an issue of fact by the district court, may be unsupported or subject to review, and stating a synopsis of the case, and grounds of error which he may desire to present to the Supreme Court, and controversies over points of law or issues of fact, and otherwise presenting his application under such regulations as may be prescribed by law or by the rules of the Supreme Court. The statement of the case in the application shall be taken as true, but the applicant shall be penalized by the Supreme Court in favor of the defendant in error in not over ten per cent of the amount involved, if the court be led to grant the writ, by wilful misrepresentation or gross carelessness. The application and briefs and arguments in support thereof shall be submitted to the opposing party, and may be answered by brief and argument, and there may be such oral arguments on application for writs of error as the Supreme Court may allow. In granting the writ the court shall designate what portions of the proceedings below shall be brought up and what portions of the record below, or what bill or bills of exception, and no statement of the whole evidence shall be brought up for review except by bill of exception on exception to the overruling of a request for peremptory instruction in the lower court or to the judgment of a judge where there is no jury. Application for writs of error need not be submitted to a quorum of the civil division, but may be submitted to and orally argued before one or more of the judges of the Supreme Court and be granted by the one or more judges to whom presented, but shall not be refused on any point of law unless by a quorum of the civil division. Criminal appeals shall be prosecuted before the criminal division of the Supreme Court on such conditions and under such regulations and restrictions as may be provided by law. In either criminal or civil cases, should a judge of either division dissent, or seriously doubt the correctness of the opinion of the majority, or should the

division decide that a constitutional question is involved, the case shall be referred to the whole court, a quorum of which shall be nine.

Sec. 6. The State shall be divided into judicial districts, not less than nine in number, which may be increased by law, but there shall not be less than seven district judges in any district, not counting any member of the Supreme Court sitting in the district court, but the same number of judges are not required to be provided for each district; and in any district court, any member of the Supreme Court shall have the right to sit, either by himself or with any other district judge or judges, and shall have all the power, when so sitting, of a district judge, and he shall be authorized to so sit upon the designation of the Supreme Court. For each district there shall be elected by the qualified voters thereof at a general election the judges of the district when vacancies occur, who shall be citizens of the United States and of this State, and who shall have been practicing lawyers of this State or a judge of a court thereof for not less than five years next preceding their respective elections and who shall have resided in the district in which they were elected for two years next preceding their election, and shall reside in the district during their respective terms of office. A district judge shall hold office for a period of eight years, and shall receive for his services an annual salary of not less than \$4000.00, and an additional per diem of \$3.00 per day while outside of his home county in the performance of the duties of his office, until otherwise changed by law. The judges of each district, of whom not less than three shall constitute a quorum for this purpose, shall meet twice a year and as often as they may deem necessary to consider the dockets of the different courts and to set the terms thereof. Terms of the district courts are abolished, as fixed by law, but the district judges shall hold such terms for such length of time and as often and as long in the several counties as they may determine in order to best adjust among themselves the dispatch of the business and the speedy administration of justice, and for this purpose the clerks of the several district courts shall furnish them with lists of cases and copies of the dockets when required. There shall be a district court in each organized county of this State, to be so designated, and to be presided over by members of the Supreme Court or by the district

judges. The district court of any county may be held by any justice of the Supreme Court, or by any one district judge, or by any justice of the Supreme Court sitting with one or more district judges, or by one or more district judges sitting together. When a justice of the Supreme Court may sit with one district judge and there be a division of opinion, that of the justice of the Supreme Court shall prevail. When two district judges may sit together and there be a division of opinion, that of the judge of longest service shall prevail, and when three or more district judges sit together, then the opinion of a majority shall prevail, unless they be equally divided, when the opinion of those of longest service shall prevail. In holding the district court of any county it may be held by divisions, if in the opinion of the judges holding the court the dispatch of business and the administration of justice be facilitated thereby, the judges sitting separately, or together, in different divisions and exercising all of the powers of the district court, and the different divisions sitting at the same time with full power to adjust and transfer the business between them so as to best dispatch the same. No district judge shall sit constantly in the same county, nor shall any district judge sit in any county more than three terms consecutively.

Sec. 7. The judges of the several Courts of Civil Appeals, now abolished, other than the chief justices thereof, and the judges of the district courts, and the judge of the criminal district court of Galveston and Harris counties, who may be in office at the time this amendment takes effect, shall constitute the district judges of this State, together with such others, if any, as may be by law provided, until the expiration of their respective terms of office under the present Constitution and two years thereafter, two years being added to each of their respective terms under the present Constitution, and until their successors are elected and qualified as district judges, and shall be apportioned among the several judicial districts of this State by the Legislature upon the formation of such districts. No judicial district shall contain less than seven judges, but may contain more.

Sec. 8. The district court shall have original jurisdiction in all criminal cases of the grade of felony, and in all misdemeanors of which exclusive jurisdiction is not given to the magistrates' courts; in all suits in behalf of the State to recover penalties, forfeitures and

escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for libel, slander or defamation of character; of all suits for trial of title to land; of all suits involving the enforcement of liens; of all suits for the trial of the right of property levied upon by any writ of execution, sequestration or attachment when the property levied on shall be equal to or exceed in value \$300; of all suits, pleas or complaints without regard to any distinction between law and equity, when the matter in controversy shall be equal to or amount to \$300, exclusive of interest; of contested elections; and such court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all the writs necessary to enforce the jurisdiction. The district court shall have appellate jurisdiction and general control in probate matters over the probate courts for appointing guardians, granting letters testamentary and of administration, probating letters, settling the accounts of executors, administrators and guardians and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors under such regulations as may be prescribed by law. The district court shall have appellate jurisdiction and general supervisory control over the county commissioners court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever, for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

Sec. 9. There shall be a clerk for the district court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction by a petit jury. In case of vacancy the district judges of the judicial district in which that county is situated shall have the power to appoint a clerk who shall hold until the office can be filled by election. The present clerks of the district courts shall continue in office for the terms stated in Section 19 below.

Sec. 10. In the trial of all causes in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by

jury; but no jury shall be impaneled in a civil case unless demanded by a party to the case and a jury fee be paid by the party demanding the jury, for such sum and with such exceptions as may be prescribed by the Legislature. In the trial of any misdemeanor, and in the trial of civil cases not involving an amount, exclusive of interest, of over \$500, the jury shall be composed of six men; provided, the suit relate to personal property, or such a judgment for money only, without foreclosure on land.

Sec. 11. No judge shall sit in any case wherein he may be interested, or when either of the parties may be connected with him, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been of counsel in the case. No judge, magistrate or arbitrator shall receive any compensation out of the fees in the case or any gratuity or gift from any litigant. When any justice of the Supreme Court or district judge shall be disqualified to hear and determine any case, or cases, in their respective courts, and there be a deficiency of judges through such disqualification so that the administration of justice may be delayed, the disqualification shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial or determination of the cause or causes in which the disqualification may exist. When any judge of the district court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case if a member of the Supreme Court or a district judge be not available; or, upon their failure to do so, a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law.

Sec. 12. All judges of courts of this State shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas.

Sec. 13. Grand and petit juries in the district courts shall be composed of twelve men, except as provided in Section 10 above as to petit juries; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases nine members of the jury concurring may render a verdict, but when the verdict shall be

rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more of the jurors, not exceeding three, when there is a jury of twelve men, may die or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

Sec. 14. There shall be established in each organized county of this State a probate court, which shall be a court of record. There shall be appointed by the judges of the judicial district in which the probate court may be situated, the appointment to be determined by a majority of such judges, a probate judge for each probate court in this State, who shall be a practicing lawyer, and shall have practiced law for not less than four years before his appointment, or have practiced law and have been a judge of a court of record in this State for not less than four years before his appointment, and who shall hold his office for six years and until his successor shall be appointed and qualified. He shall receive no fees, but a salary to be fixed by the commissioners courts and paid by the respective counties. All of the existing county judges under the present Constitution shall continue to exercise the duties of probate judges in their respective counties as now provided by law until their respective terms of office under the present Constitution have expired; and the judges of the probate courts shall only qualify and commence to perform their duties upon the expiration of the terms of the present county judges.

Sec. 15. The probate courts shall have the general jurisdiction of probate courts; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of administrators; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the judges thereof shall have power to issue writs of injunction, mandamus and all writs necessary to the enforcement of the jurisdiction of their respective courts. The judge of the probate court shall, as continuously as possible, keep

his court open in each county and at all times as far as the necessities of the business before the court may require.

Sec. 16. Prosecution in the district court for misdemeanors may be commenced by information filed by the county or district attorney, or by affidavit as may be provided by law. Grand juries impaneled in the district court shall inquire into misdemeanors, and all indictments therefor returned into the district court falling within the jurisdiction of the magistrates' court, shall forthwith be certified to such court having jurisdiction to try them for trial; and if such an indictment be quashed in the magistrate's court, the person charged shall not be discharged if there is a probable cause of guilt, but may be held by the magistrate to answer upon information or affidavit.

Sec. 17. Each organized county in the State, now or hereafter existing, shall have as many stipendiary magistrates as may be decided to be necessary by the commissioners court of each county, or provided by law. The number of magistrates shall only be decreased or increased by order of the commissioners court, the decrease to take place at the expiration of a term of a magistrate, or increased at the next general election. These magistrates shall be paid by the respective counties such salaries as the commissioners court may establish, not to be increased or decreased during the term of any magistrate, and they shall never receive any compensation out of fees of cases before them. There shall be one or more magistrates in each organized county, each to be elected for four years and until his successor shall be elected and qualified, and each shall be elected by the qualified voters of the whole county, and not by precincts. Each magistrate shall have jurisdiction throughout the whole county and his jurisdiction shall be limited to criminal matters, and to criminal cases where the penalty or fine to be imposed by law may not be more than \$200, and he may have such other criminal jurisdiction as may be provided by law under such regulations as may be prescribed by law; and appeals to the district court of each county shall be allowed in all criminal cases from the magistrates' courts under such regulations as may be prescribed by law. Each magistrate shall be ex officio a notary public. In case of a vacancy in the office of a magistrate, it shall be filled by the county commissioners court of that county until the next general election,

and upon the adoption and going into effect of this amendment, the commissioners court shall appoint a magistrate or magistrates to the number to be determined by them for each organized county of this State to hold office until the next general election. The magistrates shall have such powers as examining and committing magistrates and coroners as may be provided by law.

Sec. 18. For each organized county in this State there shall be elected four commissioners and one presiding commissioner, being five in all, to be elected by the qualified voters of the whole county or by precincts, as may be provided by law, and each to hold office for two years and until his successor shall be elected and qualified. The county commissioners shall, together with the presiding commissioner as presiding officer, compose the county commissioners court and shall exercise such powers and jurisdiction over all county business as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed. The county judge and county commissioners holding office under the present Constitution shall remain in office until the expiration of their respective terms, and the county judge shall be the presiding commissioner, and with the county commissioners shall compose the commissioners court until the expiration of their offices under the present Constitution.

Sec. 19. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for four years, and who shall be a clerk of the probate and commissioners courts, and recorder of the county, and whose duties and compensation shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the commissioners court until the next general election for the county and State officers; provided, that in counties having a population of less than 8000 persons there may be an election of a single clerk, who shall perform the duties of district and county clerk. The county or district clerk, or clerks now performing the functions of both offices under the present Constitution, shall have two years added to their terms and shall, under this amendment, continue in office as district or county clerk, or district and county clerk, until the expiration of their present terms, and an additional period of two years.

Sec. 20. Common law and statutory methods of arbitration, now existing, are preserved until it may be other-

wise provided by law. Foreclosure, rights in or concerning real estate, matrimonial cases, and those involving the possession and care of children, trusts, and their enforcement, contested election cases, cases of slander, libel and defamation of character, and all cases falling within the original jurisdiction of the district or probate courts, shall not be subject to enforced arbitration; but every other controversy, involving \$300 or less, exclusive of interest, must be arbitrated before it can be litigated by suit; complainants shall make their complaints in writing to the clerk of the district court, and upon the award of arbitrators, the clerk shall enter the judgment of that court, and cancel it upon notice of any party (to be given in the time settled by law) that he will not abide the arbitration. For the purpose of entering and cancelling the judgment, the clerk is clothed with judicial powers. Writs of attachment, garnishment, sequestration and all other extraordinary writs, provided for in case of suits, shall be issued, but the enforcement of these writs and the adaption of the clerk's judgment to them shall rest with the judge. No writ of error shall be allowed to review judgments on awards, but upon the cancellation of any such judgment on the direction of a party, litigation may proceed by suit, as if there had been no arbitration. The Legislature shall pass the necessary laws to put this section into operation and provide a simple procedure, but shall not limit its scope. The principles of common law arbitration shall control.

Sec. 21. A county attorney for counties in which there is not a resident criminal district attorney shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy, the commissioners court of the county shall have power to appoint a county attorney until the next general election. The county attorney shall represent the State in all cases in the district and magistrate courts in their respective counties; but if any county shall be included in a district in which there shall be a district attorney, the respective duties of district attorney and county attorney shall, in such counties, be regulated by the Legislature. The Legislature may provide for the election of district attorneys in such districts as may be deemed necessary and make provision for the compensation of district attorneys and county attorneys; provided,

that district attorneys shall receive an annual salary of \$500.00 to be paid by the State, and such compensation as may be provided by law. County attorneys shall receive such compensation as may be prescribed by law. All county attorneys holding office under the existing Constitution shall remain county attorneys for the terms for which they were elected and their terms shall be extended two years. All district attorneys holding office under the present Constitution shall remain district attorneys upon the adoption of this amendment, and their term of office shall be extended two years.

Sec. 22. There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for the term of four years, whose duties and compensation shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the commissioners court until the next general election for county and State officers. All sheriffs holding office under the present Constitution shall remain in office on the adoption of this amendment, and their terms shall be extended for two years.

Sec. 23. County attorneys, clerks of the district and county courts, magistrates, constables and other county officers may be removed by the judges of the district courts for incompetency, official misconduct, habitual drunkenness or other causes defined by law, upon the cause therefor being set forth in writing and finding of its truth by a jury.

Sec. 24. The Supreme Court shall have power to make and establish rules of procedure, not inconsistent with the laws of the State, for the government of that court and all other courts of this State, in order to expedite the dispatch of business and the administration of justice.

Sec. 25. The State shall have no right of appeal in criminal cases.

Sec. 26. The Legislature shall at its first session after the adoption of this amendment provide for the transfer of all business pending in any court, to the court to which jurisdiction over such business is given by this amendment to the Constitution. As soon as possible after the adoption of this amendment by vote of the people, the Legislature shall be assembled in order to put it into operation.

Sec. 27. Vacancies in the office of judges of the Supreme Court and district courts and in the office of district attorney shall be filled by the Governor



until the next succeeding general election; and vacancies in the office of presiding commissioner of any commissioners court, or in the office of county commissioner, or in the office of county attorney, or in the office of county clerk, or in the office of district and county clerk as provided for in Section 19, or in the office of magistrate, shall be filled by the commissioners court of the respective counties until the next general election for such officers.

Sec. 28. All provisions in the existing laws of the State of Texas in contradiction hereof are annulled and repealed. The Supreme Court is reconstituted as herein provided. The Court of Criminal Appeals, the Courts of Civil Appeals, the county courts and the justices courts are abolished.

And, Be It Further Resolved, By the Legislature of the State of Texas, that the above and foregoing proposed amendment shall be submitted to the voters of the State of Texas qualified to vote for members of the Legislature at the regular election to be held throughout the State for the election of officers on the second Tuesday in November, A. D., 1914, and at such election all persons favoring such amendment shall have written or printed on their ballots the words, "For the amendment to Article 5, of the Constitution, in regard to the Judicial Department of the State Government," and those opposed thereto shall have written or printed on their ballots the words, "Against the amendment to Article 5, of the Constitution, in regard to the Judicial Department of the State Government." The above and foregoing substitute amendment shall also be duly published once a week for four consecutive weeks, commencing at least three months before the regular election to be held on the second Tuesday in November, A. D., 1914, the publication to be made weekly in each county in the State of Texas in which a newspaper may be published; and the Governor shall and he is hereby directed, to issue the necessary proclamation for the submission of this proposed amendment to the qualified electors for members of the Legislature. Six thousand (\$6,000.00) dollars, or so much thereof as may be necessary, is now appropriated out of any money in the Treasury not otherwise appropriated to defray the expenses of advertising and holding said election.

VAUGHAN, Chairman.

## FLOOR REPORT.

Austin, Texas, January 27, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: We, your Committee on Military Affairs, to whom was referred Senate Concurrent Resolution No. 4, Providing for the donation by the State of Texas of rifles to the camps of Confederate veterans.

Have had same under consideration, and beg to report it back to the Senate with the recommendation that it do pass.

McNealus, Chairman; Collins, Paulus, Johnson, Cowell, Astin.

Committee Room,

Austin, Texas, January 24, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on State Affairs, to whom was referred

Senate bill No. 84, A bill to be entitled "An Act to repeal Articles 205, 206, 207 and 208, Title 10, Chapter 3, of the Revised Civil Statutes of 1911, relating to the Texas Confederate Home, and to insert in lieu thereof Articles 205, 205a, 205b, 205c, 205d, 205e, 205f, 205g, 206, 206a, 206b, 206c, 206d, 206e, 206f, 207, 207a, 208, 208a, 208b, providing for the appointment by the Governor of a board of trustees for the Texas Confederate Home and defining their duties and powers; and providing for their fees; providing for the appointment of a superintendent and defining his powers and duties, and fixing his salary; providing for the admission of applicants to said Texas Confederate Home and the conditions under which they are permitted to enter; and providing for the repeal of all laws and parts of laws in conflict with this act,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass.

BRELSFORD, Chairman.

Committee Room,

Austin, Texas, January 25, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 99, A bill to be entitled "An Act to punish any person who shall, without good cause, abandon his wife or wilfully neglect or refuse to maintain or provide for her, and to punish every person who shall abandon his or her

minor child under the age of sixteen years, or who shall wilfully neglect or refuse to maintain or provide for such child or children, prescribing penalties therefor, and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass with the following amendments:

Amend the bill on pages 1 and 9 by adding after the words "without good cause" the additional words, "such as would entitle such person to a divorce under the laws of this State."

Add Section 2 to said bill, as follows: Abandonment as used in the foregoing sections of this act means a physical abandonment or neglect or omission of all marital duty.

In lieu of "Section 2" of said original bill, declaring the emergency clause, insert in place of said words and letter the following: "Section 3."

CONNER, Chairman.

Committee Room,

Austin, Texas, January 25, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 120, A bill to be entitled "An Act to prohibit any person from maliciously, wilfully or wantonly making or circulating any false statement against any civil officer or candidate for any State, county, precinct, or municipal office, for the purpose of injuring, or which would reasonably injure, the character or candidacy of such officer or candidate, and to affix a penalty therefor,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass.

CONNER, Chairman.

Committee Room,

Austin, Texas, January 25, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 137, A bill to be entitled "An Act defining the offense of assault with a prohibited weapon, prescribing the punishment therefor, and declaring an emergency."

Have had the same under consideration and I am instructed to report same back to the Senate with the recommen-

dation that it do pass with the following amendment:

Amend by inserting the word "made" after the word "or" in line 3 in Section 1.

CONNER, Chairman.

Committee Room,

Austin, Texas, January 25, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 71, A bill to be entitled "An Act making it unlawful for a Senator or Representative-elect, to receive employment, fees, gifts, loans or compensation as officer, agent, representative, or attorney from certain corporations or persons and prescribing penalties therefor, and creating an emergency,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass with the following amendment:

Amend by striking out the last clause of Section 1, beginning with the words "or any person."

CONNER, Chairman.

Committee Room,

Austin, Texas, January 25, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 110, A bill to be entitled "An Act to prohibit the sale of intoxicating liquors in any city or town which has fixed limits in which the same shall be sold, outside of such limits, and providing a penalty therefor,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass.

CONNER, Chairman.

Committee Room,

Austin, Texas, January 25, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 64, A bill to be entitled "An Act to amend Title 7, Chapter 2, Article 303 of the Revised Statutes of the State of Texas, so as to exclude grocery stores and markets from the provisions thereof,"

Have had the same under consideration and I am instructed to report same

back to the Senate with the recommendation that it do not pass.

CONNER, Chairman.

#### PETITIONS AND MEMORIALS.

By Senator Darwin:

Resolution commending the work done for education in the State by the conference for education and the State Department of Education, adopted by the Houston County Board of Trustees.

By Senator McNealus:

Notification of the adoption of resolutions favoring Sunday amusements, asking support of House bill No. 17 and opposition to Senate bill No. 39, signed by officers of Dallas, Texas, trades unions, named as follows: International Alliance Theatrical Stage Employes, Dallas Waiters' Union, The Cigarmakers' International Union of America, Bill Posters and Billers of America, Building Trades Council, Central Labor Council, Electrical Workers, Federation of Musicians, Retail Clerks' International Protection Association.

By Senator Murray:

Petition numerously signed by citizens of Rockport, Texas, and Beeville, Texas, asking support of any measure that may be proposed during the present session that looks to placing the fish and oyster industry of the State on a sane business basis.

By Senators Weinert, Wiley, Westbrook and Darwin:

Petition numerously signed by citizens of their respective districts protesting against the passage of a certain bill proposed to regulate the sale of medicines by rural wagons.

By Senator McNealus:

Petition signed by committee of Agricultural and Mechanical Club of Dallas, Texas, requesting co-operation with Senator Astin of Bryan and Representative Rowell of Jefferson in matters of legislation affecting the Agricultural and Mechanical College, especially in the matter of separating the Agricultural and Mechanical College from the University of Texas and that of the removal of the Feed Control from College Station to Austin.

#### ELEVENTH DAY.

Senate Chamber,  
Austin, Texas,

Tuesday, January 28, 1913.

The Senate met pursuant to adjournment and was called to order by Lieutenant Governor Will H. Mayes.

Roll call, a quorum was present, the following Senators answering to their names:

Astin.	Morrow.
Bailey.	Murray.
Carter.	Nugent.
Collins.	Paulus.
Conner.	Real.
Cowell.	Taylor.
Darwin.	Terrell.
Gibson.	Townsend.
Greer.	Vaughan.
Hudspeth.	Warren.
Johnson.	Watson.
Kauffman.	Weinert.
Lattimore.	Westbrook.
McGregor.	Wiley.
McNealus.	Willacy.

Absent.

Brelsford

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday the same was dispensed with on motion of Senator Johnson.

(See Appendix for petitions and memorials and standing committee reports.)

#### REPORT OF COMMITTEE ON PRIVILEGES AND ELECTIONS— ADOPTION OF.

Senator Watson asked unanimous consent to take up, at this time, the report of Committee on Privileges and Elections, relating to the contest of the seat of the Senator from the Fourteenth Senatorial District. (See Journal of January 22, for the report of the committee in full.)

The report of the committee was read and

Senator Lattimore moved the adoption of same, which motion prevailed by the following vote:

Yeas—26.

Carter.	Greer.
Conner.	Hudspeth.
Cowell.	Johnson.
Darwin.	Kauffman.
Gibson.	Lattimore.